

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * * * *

JULIO CESAR NAVAS,
Plaintiff,

v.

ANNA MARIE BYRON, *et al.*,
Defendants.

3:11-cv-00868-LRH-VPC

ORDER

Before this Court is the Report and Recommendation of U.S. Magistrate Judge Valerie P. Cooke (#3¹) entered on June 19, 2012, recommending granting Plaintiff's application to proceed *in forma pauperis* (#1), and dismissing some claims with prejudice and others without prejudice. No objection to the Report and Recommendation has been filed. The action was referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)B and Local Rule 1B 1-4 of the Rules of Practice of the United States District Court for the District of Nevada.

The Court has conducted its *de novo* review in this case, has fully considered the pleadings and memoranda of the parties and other relevant matters of record pursuant to 28 U.S.C. § 636 (b) (1) (B) and Local Rule IB 3-2. The Court determines that the Magistrate Judge's Report and Recommendation (#3) filed on June 19, 2012, should be adopted and accepted.

¹Refers to court's docket number.

1 IT IS THEREFORE ORDERED that the Magistrate Judge's Report and Recommendation (#3)
2 filed on June 19, 2012, is adopted and accepted, and Plaintiff's application to proceed *in forma*
3 *pauperis* (#1) is GRANTED. The full filing fee of \$350.00 shall still be due pursuant to 28 U.S.C. §
4 1915, as amended by the Prisoner Reform Litigation Act of 1996.

5 IT IS FURTHER ORDERED that the Clerk shall file the complaint (#1-1).

6 IT IS FURTHER ORDERED that Plaintiff's Fourth, Fifth and Fourteenth Amendment claims
7 against the following defendants (#1-1) are **DISMISSED WITH PREJUDICE** for the reasoning
8 articulated in the Report and Recommendation:

- 9 1. Defendant Schumacher;
- 10 2. Defendant Gammick; and
- 11 3. Defendant Longtin.

12 IT S FURTHER ORDERED that Plaintiff's Fourth, Fifth and Fourteenth Amendment claims
13 against the following defendants (#1-1) are **DISMISSED WITHOUT PREJUDICE** and with leave
14 to amend according to the guidance provided in the Report and Recommendation:

- 15 1. Defendant Byron;
- 16 2. Defendant Rankine;
- 17 3. Defendant Stokes;
- 18 4. Defendant Western Title and Escrow Co.;
- 19 5. Defendant Delgado; and
- 20 6. Defendant Palacios.

21 IT IS FURTHER ORDERED that Plaintiff's motion for the appointment of counsel (#1-2) is
22 DENIED.

23 IT IS FURTHER ORDERED that the Clerk shall send to Plaintiff a blank form for filing a civil
24 rights complaint pursuant to 42 U.S.C. § 1983 with instructions and a copy of the original complaint.
25 Plaintiff is advised that pursuant to Local Rule 15-1, the amended complaint shall be complete in itself
26

1 without reference to the previous complaint. Plaintiff is given thirty (30) days from the date of this
2 order within which to file an amended complaint remedying, if possible, the defects in the complaint
3 explained in the Report and Recommendation. Plaintiff's failure to do so may result in the immediate
4 dismissal of the entire action. Plaintiff shall write the words "first amended" above the title "Civil
5 Rights Complaint" on the form and Plaintiff shall place the case number, 3:11-cv-00868-LRH-VPC,
6 above the words "first amended" in the space for "Case No."

7 IT IS SO ORDERED.

8 DATED this 27th day of July, 2012.



10
11 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE